

Utah Working Interdisciplinary Network of Guardianship Stakeholders (WINGS)

Thursday, August 19, 2021 - 12:00 to 2:00 p.m.

Attended			Not Present	
Judge Keith Kelly	Rob Ence	Andrew Riggle	Judge David Connors	Michelle Miranda
Allison Barger	Xia Erickson	Danaka Robles	Judge James Brady	Alan Ormsby
Deborah Brown	Nels Holmgren	Shonna Thomas	Shane Bahr	Katie Thomson
Brant Christiansen	Camille McBride	James Toledo	Wendy Fayles	Todd Weiler
Tantalisa Clayton	Nan Mendenhall	Michelle Wilkes		
Rob Denton	Daniel Musto	Kaye Lynn Wootton		

Agenda

	Topic	Presenter	Materials
12:00	Meeting begins		
	<ul style="list-style-type: none"> Housekeeping Minutes 	Judge Kelly	<i>WINGS Minutes (June 2021 – draft)</i>
12:10	<ul style="list-style-type: none"> CVP funding update New timeframes 	Shonna Thomas	<i>CVP Extended Timeframes Table</i>
12:20	<ul style="list-style-type: none"> Judicial Council committee 	Judge Kelly Shonna Thomas	<i>Rule 1-205 and WINGS rule</i>
12:40	WINGS membership: <ul style="list-style-type: none"> Expiring terms Nancy’s replacement 	Judge Kelly Shonna Thomas	
12:50	WINGS projects updates: <ul style="list-style-type: none"> Rules 6-501 & 6-507 Virtual hearings post-COVID 	Judge Kelly Brant Christiansen Michelle Wilkes Shonna Thomas	
1:00	Future projects: <ul style="list-style-type: none"> NCSC survey Limited guardianship 	Group discussion Group discussion	<i>Adult Guardianship Monitoring (NSCS Survey)</i>
1:50	Other business: <ul style="list-style-type: none"> 	Judge Kelly	
2:00	Meeting adjourned		

Next meeting:	October 21, 2021 (via WebEx)
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1. Housekeeping

- Meeting began at 12:05pm.
- A motion was made to approve the minutes from the previous meeting (June 17, 2021). The motion was seconded and approved.
- Meeting adjourned at 1:38pm.

2. CVP

Funding Update

The Court Visitor Program (CVP) has submitted a budget request for a second Court Visitor Program Coordinator. Another coordinator will help cover the increase the CVP has been seeing in requests for Court Visitors, and give the program the resources needed to work on recruiting more volunteers. The CVP has not actively recruited in several years, due to time constraints (and COVID), and the number of available volunteers has decreased from 60 in 2018, to 35 currently. Only 10 of those 35 volunteers take cases on a regular basis.

There are more budget requests this year than usual, because of the impact COVID had on funding last year. The next step in this process is to present to the Judicial Council, to determine which of the requests will move forward to the legislature for possible funding. The Judicial Council will rank each request in order of priority.

The CVP is hopeful that the request will be moved ahead to the legislature, and if it does, the program will reach out to WINGS members for support as needed. However, the last effort to secure funding was a 3-year process, so the request may not be fulfilled this year.

New Timeframes

In addition to the ongoing effort to get a second Court Visitor Program Coordinator, the CVP recently put out a memo indicating that timeframes for case assignment and completion will be extended for the foreseeable future. This was done in an effort to spread out cases and help the CVP and the Court Visitors better manage the increase in requests.

The new timeframes went into effect August 1, 2021.

3. Judicial Council Committee

The draft of Rule 1-205 has gone out to WINGS members for comments, and no additional input was received. The committee should now be ready to move forward in the process, including submitting a formal proposal to the Judicial Council, along with the suggested updates to Rule 1-205 and the addition of the separate WINGS rule.

Questions asked –

- How difficult would it be to change the rule in the future, if the WINGS membership needs more flexibility?

The proposed membership list in Rule 1-205 is intended to allow for flexibility and a broader representation on WINGS without having to update the rule each time. However, the Judicial Council may come back and ask that the language be less expansive.

The WINGS rule that corresponds with this proposal could have language added that would make clear that WINGS is designed to be flexible, so that new community stakeholders who have an interest in guardianship issues could be part of WINGS.

- How would members be chosen/appointed as a Judicial Council Committee?

Normally, the Judicial Council appoints committee members, usually via an email describing the committee opening and asking interested individuals to respond with their interest. This would not be an appropriate process for WINGS. More information needs to be obtained to determine if there are other ways to invite members.

Decisions made –

- Judge Kelly will draft language to the WINGS rule, adding a subpart 3, to describe the flexibility in membership needed by WINGS.
- Judge Kelly will make inquiries to determine how community members are appointed on Judicial Council committees and whether the process will work with WINGS' flexibility needs.
- Shonna will research if there is another rule or subpart of the rule that deals with the Judicial Council's appointment process.
- This item will remain on the agenda.

4. WINGS Membership

Expiring Terms:

There are several WINGS stakeholders with terms expiring in the next month, including:

- Judge Connors
- Judge Brady
- Wendy Fayles
- Nels Homgren
- Nan Mendenhall
- Daniel Musto
- James Toledo

The bylaws make clear that for representatives of organizations, it is up to the organization to decide who to send to participate in WINGS on an ongoing basis. However, the bylaws are less clear on the process for renewing terms in general or for members who are not representing an organization. This is one of the reasons WINGS is pursuing becoming a Judicial Council Committee.

Decisions made –

- It is suggested that WINGS continue renewing terms in the manner done in the past, while the process of becoming a Judicial Council Committee moves forward.
- A motion was made to renew all the terms of the members listed above. The motion was seconded and approved.
- Brant Christiansen will follow up with Kent Alderman to determine if he plans to continue participating in WINGS. (Kent's term is also expiring, but it is unclear if he retired from WINGS after asking Brant to serve as his replacement.)

Nancy's Replacement:

Keisa Williams, the new General Counsel in the Administrative Office of the Courts, has been working to fill the two Associate General Counsel positions. Once the full team is in place, they will assign a Counsel to WINGS. It will likely be a few months before a replacement is ready to take Nancy's place on WINGS.

5. WINGS Project Updates

Rule 6-507 & Rule 6-501

Both rules have been reviewed and revised by the Probate subcommittee. They are ready to be presented at the next Policy and Planning committee.

Rule 6-507 went into effect November 2020. Since that time, the Court Visitor Program (CVP) has maintained a list of needed updates to the rule. Prior to Nancy leaving, the Probate subcommittee worked on revising the rule, specifically in the following areas:

- Clarification in the language, to give the CVP more latitude in the definition of a visitor. The initial definition mimicked the definition in the statute, but language has been added that requires Court Visitor training, but gives the CVP options on the content and scope of the training (versus a formal degree in a related field).
- The revisions also add to the role of a Court Visitor, under 75-5-312.5, which relates to Right of Association. The statute addresses restrictions on visitation with the protected person. The rule would allow a Court Visitor to be requested to investigate in these cases.
- Updated language to describe access to the court's interpretive language services.
- The process in place for the court once a Court Visitor report is received. The revisions direct the court to review the report and make at least a minute entry or further action.
- The process involved if an objection is made to the Court Visitor report. Because the Court Visitor does not make findings, there is not currently a procedure or mechanism in place to address objections to the Court Visitor's report. The rule clarifies that objections can only be considered if the party believes the Court Visitor overstepped their scope/authority in the case, and provides timeframes for this process.

Rule 6-501 relates to reporting and the requirements for guardians. The subcommittee worked to streamline this rule, including the following:

- Clarifying the Right to Object procedure and timeframes, to be consistent with the Civil Rules (28 days to object, not 30).
- Removed from the rule language referring to a limited guardianship of a minor.
- Sections to address each of the types of required reports.
- Included information about the approval of annual reports, and a waiver, to formalize the timeframe for objection and not leave the door open to object to an annual report several months down the road.
- Coversheet to the annual reports. This would be filed in conjunction with the report to trigger the court's review of the report, and ensure a formal approval process.
 - Section 5B covers what needs to be included in the report and the use of the coversheet, but it still needs final language. The language is appropriate for attorneys, but may not be as easily understood for pro se guardians/conservators. It is anticipated that Policy and Planning will be able to give some recommendations.

Decisions made –

- This item will remain on the agenda.

Virtual Hearings Post-COVID

The court has put together a work group to review this topic court-wide and assess the various considerations. The work group is looking into putting together a survey for community stakeholders to get their input as well. Shonna reached out to the group to let them know that WINGS stakeholders would like to be included in that process if possible.

One issue is the language of 75-5-303, which requires in-person presence of the respondent in guardianship proceedings. The courts are working under the COVID order from the Chief Justice allowing for remote hearings. However, moving forward post-COVID, if the court decides to maintain some degree of remote hearing attendance, this may require a language change or clarification in the statute of what it means to be “in-person.”

6. Future Projects

The National Center for State Courts (NCSC) recently released a national survey that describes several areas within guardianship where the courts could improve. This survey could also help inform WINGS as the committee moves forward to new projects.

Discussion –

- There are two issues in the NCSC that stand out – the need to regularly review whether the guardianship that is in place should continue or be modified, which is not routine in Utah, and the need to regularly review annual reports.
- A report review is the only internal court mechanism that forces the court to look at a guardianship appointment on a regular basis.
- If the protected person is the biological child of the guardian or co-guardian, no reporting is required, which means that in all practicality, the majority of non-senior adult guardianships do not get reviewed.
- Last meeting, the committee brainstormed future projects to take on as some ongoing projects are wrapping up. Committee members listed several areas, but identified improving the education around and use of limited guardianships as a high priority.
- Even when a limited guardianship is selected on the petition, there are often so many areas requested to be included in the guardian’s authority that it is a de facto full guardianship.
- The recent news about the conservatorship case of singer Britney Spears has brought more national attention to guardianship, including some bipartisan efforts in congress.
- One bill was recently introduced in the US House of Representatives related to monitoring guardianship, with funding proposed to assist in this monitoring. This bill would require a caseworker be assigned to every person under guardianship, which would require significant additional funding.
- Xia Erickson shared the following link: <https://www.govinfo.gov/content/pkg/BILLS-117hr4545ih/pdf/BILLS-117hr4545ih.pdf>
- Another bill has been proposed in congress, which addresses that protected persons are entitled to hire or replace their own counsel at any time.

Decisions made –

- Michelle will send follow up information about the proposed bills and survey to committee members.
- This item will remain on the agenda.

7. Other Business
NA - No other business was introduced and discussed.

Action Items	
<ul style="list-style-type: none"> – Draft language to the WINGS rule, adding a subpart 3, to describe the flexibility in membership needed by WINGS. – Make inquiries to determine how community members are appointed on Judicial Council committees and whether the process will work with WINGS’ membership flexibility needs. 	Judge Kelly
<ul style="list-style-type: none"> – Research if there is another rule or subpart of the rule that deals with the Judicial Council’s appointment process. 	Shonna Thomas
<ul style="list-style-type: none"> – Follow up with Kent Alderman to determine if he plans to continue participating in WINGS. 	Brant Christiansen
<ul style="list-style-type: none"> – Send follow up information about the proposed bills and survey to committee members. 	Michelle Wilkes

Deferred / Continuing Items
<ul style="list-style-type: none"> – Judicial Council Committee & Rule 1-205 – Rule 6-507 Update – Rule 6-501 Update – Future Projects – limited guardianships, guardianship monitoring

Next Meeting(s):	<p>October 21, 2021</p> <p>December 16, 2021</p> <p>February 17, 2022</p> <p>April 21, 2022</p> <p>June 16, 2022</p>
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